Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of	)	
	)	
Local Exchange Carriers' Rates,	)	CC Docket No. 94-97, Phase II
Terms, and Conditions for	)	
Expanded Interconnection Through	)	
Virtual Collocation for Special	)	
Access and Switched Transport	)	DOCKET FILE COPY ORIGINAL

REBUTTAL TO OPPOSITIONS TO
<u>U S WEST COMMUNICATIONS, INC. DIRECT CASE</u>

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November 22, 1995

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REBUTTAL TO OPPOSITIONS TO U S WEST COMMUNICATIONS, INC. DIRECT CASE

I. INTRODUCTION AND SUMMARY

U S WEST Communications, Inc. ("U S WEST") herein responds to those filings made in opposition to U S WEST's Direct Case.[1]

We agree with one aspect of the commentors' filings. We echo their refrain that there is little new information and little new argument in these current rounds of filings.[2] Most of the relevant factual information capable of quantification and public filing has already been provided to the Federal Communications Commission

[1] Comments and oppositions, filed herein Nov. 9, 1995 by Association for Local Telecommunications Services ("ALTS"), Electric Lightwave, Inc. ("ELI"), MCI Telecommunications Corporation ("MCI"), Time Warner Communications Holdings, Inc. ("Time Warner"), and MFS Communications Company, Inc. ("MFS"). MFS' Errata, filed herein Nov. 13, 1995. Teleport Communications Group Inc. ("TCG") filed Comments herein Nov. 3, 1995.

[2] See, e.g., ALTS at 5-6 (arguing that the local exchange carriers ("LEC") continue to provide inadequate information); TCG at 2 (arguing that the LECs -- but not interconnectors ("IC") -- merely "regurgitate the same meritless information").

("Commission"). Other "information"-gathering pursuits by the Commission involve speculation and conjecture.[3]

But perhaps most fundamentally, the problem that has compromised this proceeding from the beginning, with respect to information gathering and analyses, is the Commission's unrelenting desire to declare as "comparable" that which is not -- factually, logically, or legally -- "comparable:" Virtual Expanded Interconnection ("VEIC") services and high-capacity DS1 and DS3 services. Forcing a comparison where none rationally or reasonably exists has rendered this proceeding moribund from its inception. It has polarized debate and given new meaning to the term "asked and answered."

This portion of the proceeding is no different. Opponents of the LECs' Direct Cases argue that the LECs have provided no new information.[4] And even a cursory reading of the Oppositions to those Direct Cases evidence that little in the way of new argument, product disparagement, and LEC bashing has been introduced into the debate.

The debate is, after all, philosophical. To the extent that one does not assume a direct or close "comparability" between VEIC services and DS1/DS3 services, LECs -- such as U S WEST -- have clearly carried their burden of proof. To the extent that one seeks to impose a more stringent comparison (ignoring both the

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[3] Compare U S WEST Direct Case, filed herein Oct. 19, 1995 at 2, 5-6.

[4] In many cases, this is probably correct. Much of the information has already been provided in responses to various Petitions to Investigate, Reject or Suspend the LEC tariffs. Other information was provided in the Phase I portion of this proceeding.

design and demand differences of the services), one might argue to the contrary. At this point, the Common Carrier Bureau ("Bureau") has in its possession all the relevant information it needs and it is in a position to make a decision.

II. NO PROOF OF PRICE SQUEEZE HAS EVER BEEN PUT ON THE RECORD

In rendering its decision, the Bureau must keep in mind what the current round of Oppositions does not do. Opponents of LECs' VEIC tariffs do not begin to prove a "price squeeze."[5] Commentors really do not even try to prove such a phenomena. Rather, the opponents of the LECs' Direct Cases merely continue an advocacy strategy that they must believe has merit and can produce results: allege, allege, allege.[6]

Proving whether or not a "price squeeze" exists with respect to any product offering and its correspondent services is not easy. Commentors here have failed to make out any credible argument that such either can or is occurring with regard to VEIC services.

While the Commission, in considering allegations of anti-competitive conduct, is not held to the same "proof" requirements as a federal District Court hearing a formal antitrust case, it must not treat casually allegations of carrier misconduct

[5] See ALTS at 2; MCI at 2, 21-22 (MCI's argument here is both speculative and gratuitous, arguing that certain pricing practices with respect to training are excessive and are engaged in by one LEC "and most probably by other LECs." Hardly a tangible offer of proof.). Compare MFS at 4-5.

[6] Once again, as is increasingly the common practice, ALTS' prose is among the floweriest. See ALTS at 2-3, 6.

that are not, by their nature, casual. It must, if not because of strict due process concerns then because of simple fairness, require that those who yell "fire" at least prove something beyond the smell of smoke in a general 10,000 mile radius. To require less is to permit the regulatory processes of tariff defenses and Commission investigations to lose touch with one of the most critical aspects of fair process: the proponent of a proposition must prove that it is true.

No opponent has proven a "price squeeze" with respect to U S WEST's VEIC services. Such arguments should be affirmatively dismissed with language that makes clear that such arguments, unsupported by facts, will no longer be tolerated.

III. U S WEST'S DIRECT CASE WAS AS COMPLETE AS REASONABLY POSSIBLE, BARRING EXCURSIONS INTO SPECULATION AND HYPOTHETICALS

ALTS and MCI both criticize U S WEST's Direct Case responses, arguing that we were not responsive at all or insufficiently so.[7] MFS, on the other hand, agrees that U S WEST's current circumstance (our no-cost lease VEIC interconnector-designated equipment ("IDE") tariff) "obviates the need for Commission scrutiny" with respect to certain issues.[8]

U S WEST explained our situation fully in our Direct Case.[9] Given the fact that the particular VEIC IDE offering that the Bureau was inquiring about is no

[7] See, e.g., ALTS at 15-18; MCI at i, 2, n.4.

[8] MFS at 12, n.16.

[9] See U S WEST Direct Case at 3-10.

longer offered by U S WEST, we were limited in terms of what information we had available. In those situations where we had the information requested by the Bureau, we provided it (or citations to places where the information had already been provided). Where we did not have the information, we did not manufacturer it or speculate about what it might have been.

U S WEST's responses were certainly not contemptuous. Rather, they were responses that were largely predictable. Indeed, they were responses that stemmed from the essential mootness and lack of ripeness of the Bureau's inquiry to U S WEST's current VEIC IDE offering.

Given the fact that the VEIC IDE offering which the Bureau inquired about was no longer in effect (and had not been in effect for some time), that no effort beyond that already expended by U S WEST had been devoted to costing/pricing/strategizing about the product offering, it is clear that U S WEST took the only responsible action. We did not duck the issue; we did not "make it up." We frankly admitted our inability to respond and asked to be relieved of the obligation to respond.

To the extent that U S WEST's position is credible, and we certainly believe that it is, our requested relief should be granted. The Bureau's inquiry on matters pertaining to our superceded VEIC IDE offering should be declared moot. Concomitantly, the Bureau should <u>not</u> render a decision on these matters *vis-à-vis* U S WEST. Given the lack of ripeness, any ruling by the Bureau on these matters would be in the nature of a declaratory ruling. The issuance of such a ruling is not compelled either by law or sound public policy. We urge the Bureau not to engage in such action.

IV. THERE IS OBVIOUSLY AN ONGOING DEBATE OVER SERVICE "COMPARABILITY"

Once again, the commenting parties complain that U S WEST has not shown sufficient respect for the Commission's and Bureau's continued assertion that VEIC services are somehow "comparable" to our retail high-capacity services, such as DS1 and DS3.[10] Regardless of U S WEST's philosophical difference of opinion with that of the Commission,[11] whenever able we have provided all available relevant information with respect to the two services.[12]

But facts are facts. And the facts remain: the product design, demand, and rating structures for our VEIC service and our DS1 and DS3 services are not the

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[10] See ALTS at 2-5; MFS at 2-6; ELI at 11-12.

[11] "In U S WEST's opinion, there are no additional common carrier services that are comparable to our VEIC services. U S WEST has no other services which originate from interconnector-designated equipment ("IDE") in U S WEST's wire center and terminate on a U S WEST service in that same wire center. See U S WEST Direct Case, filed herein Mar. 21, 1995 at 2 (hereinafter referred to as Original Direct Case).

[12] U S WEST chose to be responsive in its Original Direct Case by choosing the DS1 monthly channel termination rate element (excluding Self Healing Alternate Route Protection ("SHARP") and interoffice mileage) and the DS3 Capacity of One monthly rate element (excluding interoffice mileage) as the most "comparable" services to the DS1 and DS3 EICT rate elements. See Original Direct Case, Appendix A. Subsequently, U S WEST provided further details on the investment components of our DS1 and DS3 EICT, DS1/DS3 Service and DS1/DS3 Entrance Facility (switched access), Transport (mileage), and SHARP. See Rebuttal to Oppositions to Direct Case, filed herein Apr. 11, 1995, Attachment A (hereinafter referred to as Original Rebuttal). Even more detail was provided in U S WEST's Phase II Direct Case (at 3-22 and Appendix A) in response to the Bureau's request. See In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase II, Order Designating Issues for Investigation, DA 95-2001, rel. Sep. 19, 1995 at ¶ 56 ("Phase II Designation Order").

same. Where we believe that the rating structures should be similar, we have treated them accordingly. Where we do not, we have not. In all cases, we have explained the reasoning behind our position and decisions. We believe that we have proven the reasonableness of our position; and that protestants of our VEIC tariff have failed to demonstrate the singular appropriateness of theirs.

ALTS suggests that no LEC has proven the propriety of its VEIC service costs, and that the Commission should disallow all investigated direct costs of all LECs, to the extent that they exceed the lowest total for such costs filed by any Tier 1 carrier.[13] This is, of course, unacceptable. U S WEST has supplied all available, relevant and material cost information in our various submittals to the Commission. That information proves our costs and the propriety of our rates. Those rates should be permitted to stand unchanged.

Furthermore, despite the difficulty (and challenge) of having to review different LEC cost and rate structures, costs are not fungible among companies. To the extent that U S WEST's costs and rates are different from other LECs, and to the extent we have proven the reasonableness of those differences, we are entitled to recover them.

[13] ALTS at 6.

V. THE USE OF NONRECURRING CHARGES IN THE VEIC RATE STRUCTURE IS APPROPRIATE

Several parties have expressed concern that U S WEST recovers its costs for installation of IDE through nonrecurring charges and that the precise recovery methodology does not mirror that for DS1/DS3 services.[14] This is just another example of the "asked and answered" problem with the current proceeding. U S WEST has addressed this issue in numerous previous filings.[15]

VEIC is not like any other service offered by U S WEST. The equipment used to provide the service is IDE -- not LEC-DE -- equipment. It is not equipment that is available for general common carrier use. It is not equipment that is dedicated to the ubiquitous provision of public switched network services.

There is nothing about U S WEST's VEIC service that ensures that an IC will continue to provide service with its IDE equipment for any particular length of time. Indeed, as the industry becomes more competitive, one would expect the volatility of customers changing from one provider to another to increase. And, as many ICs have claimed throughout this proceeding, the IDE chosen by any

[14] ELI at 3-4; ALTS at 26; MFS at i (MFS states that U S WEST "acknowledges" these differences, and suggests that by that acknowledgment we also acknowledge that we "impose . . . more onerous cost burdens on [ICs] than on [our] preferred customers." While we acknowledge that there are pricing differences, we do not acknowledge that they are "onerous" in either intention or impact.), 9-10.

[15] See Reply of U S WEST Communications, Inc., to Petitions to Reject, Suspend and/or Investigate, Transmittal Nos. 530, 531, 536, 537, 538, 539, 548 and 549, U S WEST Tariff F.C.C. No. 5, filed Oct. 31, 1994 at 29-32; Original Rebuttal at 13-14.

particular IC might be the cutting-edge "value added" needed to attract and maintain customers.

Furthermore, there may be additional volatility due to the entrance of new ICs into this market, some of which do not bring credit or service histories comparable to established, long-term providers. Neither the general public nor U S WEST should be expected to underwrite the changes in market position, the changes in equipment, and/or the changes in success that such new entrants bring to the market.

The various nonrecurring charges in U S WEST's VEIC tariff are for services that are completed up front. Since IC customers can disconnect at will, U S WEST must recover those costs up front.[16] The IDE equipment does not belong to U S WEST and the costs of installing that equipment cannot, based on any rational economic theory, be recovered from any other customer.

U S WEST has a fiduciary responsibility to our shareholders to conduct our business in a manner that will recover the costs of service provided to each customer. We have an obligation to the public not to saddle general offerings with costs/liabilities associated with particular ones. U S WEST's tariff is prudently structured to accommodate all VEIC purchasers, including new entrants, without

[16] Indeed, U S WEST has already encountered situations where ICs decide to cancel their VEIC requests prior to completion of the project. The way in which we currently have our VEIC tariff structured has permitted us to fully recover our direct costs associated with the work-to-date on those projects.

resulting in stranded investment or costs -- the recovery of which would remain with the mythic "public" (certainly not the cost causer) or U S WEST.

VI. U S WEST'S POSITION ON OUTSIDE CONTRACTORS IS EMINENTLY REASONABLE

ALTS and ELI continue to press the Commission to mandate that LECs be required to utilize not just equipment designated by ICs, but contract labor, as well.[17] Neither has proven why the Commission's original determination along these lines was incorrect.[18] Nor have they proven why U S WEST should be mandated to change its current position, in light of the fact that that position is consonant with the current Commission requirements.

The Bureau is simply not in a position to hold that, as a matter of law or policy, it is unreasonable for a LEC to exercise care and selectivity in the hiring and oversight of contract work, especially since LEC personnel might not be personally present at all times to monitor the work.

U S WEST will not abdicate this responsibility, nor permit it to be delegated to a third party. We must have the ability to exercise our own management choices to determine the qualifications and technical competency of outside contract personnel entering our premises to perform installation, maintenance or repair

[17] ALTS at 28; ELI at 4-6, 7, 14, 17-18.

[18] The Commission has required that LEC practices with respect to the utilization of contract labor generally be the same as they employ with respect to VEIC services. See In the Matter of Expanded Interconnection with Local Telephone Company Facilities, Memorandum Opinion and Order, 9 FCC Rcd. 5154, 5173 ¶ 59 (1994).

services. In this position, we make no differentiation between VEIC services and other common carrier services that we provide.

Any installation work that occurs on U S WEST's premises involves individuals working in and around other equipment and facilities, some of which could be considered U S WEST "premises," some of which may not be. Generally, the work environment has equipment and facilities that are "in service," providing telecommunications services to customers. Only by maintaining a strict "qualifying criteria" for contractors can we minimize risks to employee safety (both those of U S WEST as well as of the particular contractor), service integrity for all of our customers and reliability of "in service" equipment and facilities.

Furthermore, U S WEST is committed to the *bona fide* Request for Bid process with respect to the hiring of third party contractors. We believe that it is the fairest and most equitable process of securing the proper contractor support in those particular instances in which such support is required.[19] In essence, U S WEST's contractor selection and qualification processes are built around contractual compliance with U S WEST's technical requirements[20] and is driven by our need to be perceived as fair and to ensure installation and service quality.

[19] As a general matter, U S WEST has more suppliers of contract services than we have available jobs. The use of "qualifying criteria" (including demonstrated technical proficiency) ensures that the pool of interested contractors meet basic minimum criteria. Once the "pool" of available contract support is identified, the decision as to which specific contractor is chosen for any particular job is a decision made separately and independently each time the need for support arises.

[20] U S WEST has established and published technical and workmanship requirements with which suppliers of such services are contractually obligated to comply (U S WEST Technical Publication 77350, "Equipment Installation and Removal Guidelines," Publication 77351, "Engineering

ELI argues that the way U S WEST has constructed our VEIC tariff is "counter to the way transmission equipment is typically installed,"[21] suggesting that if we adopted a "typical installation" approach to VEIC services, the use of outside contractors would cease to be a serious issue because the costs of installation would be considerably reduced. ELI claims that "[t]he usual and customary manner to install advanced Fiber Optic Terminals and Next Generation Digital Loop Carrier equipment . . . is for the [IC] to issue a purchase order to the manufacturer for preassembled systems mounted in a special relay rack."[22]

ELI's comments, while not technologically inaccurate, do not persuasively support a position different from that currently taken by U S WEST. U S WEST is increasingly making use of rack-mounted systems that are preassembled at the manufacturer. However, our physical plant does not always allow sufficient space for a preassembled rack mounted system. Furthermore, the use of such a unit does not eliminate the need for compliance with U S WEST's requirements during installation.

Even with respect to the installation of preassembled units, installation service providers, including -- when necessary -- outside contractors used by U S WEST, are still required to comply with U S WEST's technical publications, in the interests of safety, service continuity and reliability.

Standards General Equipment Requirements" and Publication 77355, "Grounding - Central Office and Remote Equipment Environment").

[21] ELI at 6.

[22] Id.

VII. THERE SHOULD BE NO TARIFFING REQUIREMENTS WITH RESPECT TO VEIC SERVICE PROVISIONING AND REPAIR INTERVALS

Several commentors suggest that LECs should be required to tariff provisioning and repair intervals.[23] Like so many of the opponents' objections to the current LEC tariffs, this one has been "asked and answered."

U S WEST addressed this issue in our Direct Case.[24] Little has been raised by commentors that require additional response.[25]

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[23] MCI at 22; MFS at 23 (MFS cites to particular problems with U S WEST and our installation processes; see further discussion of this matter at notes 32 and 33, infra); Time Warner at 53

[24] U S WEST Direct Case at 35-36.

[25] MCI's sole factual support for its argument that installation intervals for VEIC service should be tariffed by the LECs generally, is its complaint that it has been "delayed by US West [sic] because US West continually misses or extends its provisioning deadline." MCI at 22. MCI argues that it "has had to wait 9 months for US West to provision an arrangement which other LECs have routinely provisioned in only 2-3 months." Id. at 22-23. MCI does not identify these other LECs; and it includes as "proof" of its assertions against U S WEST a letter from an MCI employee to one of U S WEST's employees. Id. at Attachments.

The letter of "proof" is as fairly oblique as a demonstration of the facts asserted. For example, from that correspondence U S WEST cannot determine how MCI has calculated the 9-month interval it asserts it was subject to. MCI provided the 50 percent down payment for its first EIC request on June 29, 1995. As of today, this project is due to be completed in late December. That is clearly less than 9 months. During those six months, U S WEST will have established the point of interconnection ("POI"), installed the IDE and tested and turned up the IDE.

With regard to MCI's argument that it takes U S WEST anywhere from 4.5 weeks to 9.5 weeks to install the same type of equipment, the argument is larger than the supporting facts. The referenced attached letter to U S WEST does not reflect actual days/months involved in engineering or installation. Rather, the numbers show the total cost of installation, as calculated in one-half hour increments -- our tariffed rate structure for installation. See U S WEST Tariff F.C.C. No. 5, § 21.7.2.D.9. and 10.

The number of hours for any specific installation cannot be directly equated with the cost increments. The amount of time that would be required to complete the necessary engineering and installation of the IDE would depend on factors such as how many individuals were working at the same time, if only a single individual was available for all the work required or whether multiple individuals were available. Consequently, just looking at the total number of hours involved for costing/rating purposes does not represent the amount of total days it takes to complete the installation but does represent the total cost (including the costs for cabling).

U S WEST does not typically tariff specific provisioning or repair intervals for any of our services.[26] To the extent that VEIC services are considered "comparable" to any of these services (whether rightly or wrongly), then, no tariff specifics should be required.

A requirement that LECs, including U S WEST, be required to tariff specific provisioning and repair intervals in their VEIC tariffs would be particularly onerous because of the uniqueness of each EIC request. And, U S WEST sees nothing magical about the tariffing process that would "fix" (in advance) or solve issues associated with delay, mistakes, and so on.[27]

To begin with installation. With respect to the VEIC service itself, there may be delays in getting permits from the city, unforeseen circumstances could occur

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Furthermore, the correspondence which MCI attached contains one "outlier" in terms of engineering and equipment installation charges. That "outlier" is Seattle. There are a number of reasons for this. First, the Seattle quotation was one of the first done by U S WEST. It was an estimate done with respect to an office that had already undergone some fundamental infrastructure design work that rendered additional work for VEIC services less costly. Since then, U S WEST has begun work to develop a computer model that can provide quotation information for VEIC IDE installations based on office averages, to ensure more consistent quotes across the region for comparable equipment. This type of computer model was used to develop the other quotes reflected in the correspondence. With respect to the non-Seattle installations, the MCI-referenced correspondence demonstrates a high degree of comparability of the engineering and installation rates among geographic areas and equipment types.

[26] The "service guarantee" associated with our DS1/DS3 services is something of an exception. See U S WEST Direct Cast at 37 and U S WEST Original Direct case at 6-7. Yet, even it is not a tariffing of service "intervals." It is not an installation guarantee, but a repair guarantee, which comes into play "after the fact." And, as we have explained, ICs' customers have the benefit of this service guarantee, just as U S WEST's customers do.

[27] In this regard, we disagree with MFS that tariffing is required because without tariffing LECs can "escape the detection of serious problems, such as unacceptable delays and improper repairs[.]" MFS at 23. There is nothing about "tariffing" that makes these more or less detectable. There is nothing about tariffing that makes them more or less resolvable. They remain issues between and among businesses doing business with each other. If the overall process of doing business fails, the Complaint process is available. The LECs' current limitations of liability render that as meaningful a recourse as a claim of "Tariff Violation!". See also note 33, infra.

during provisioning of the manhole, or orders for fiber used for the VEIC entrance facility could be delayed. Additionally, to the extent there is any contracted work involved, there could be problems in getting that work completed as committed to by the contractor.

Furthermore, and not insignificantly, delays in installation can occur due to the direct actions of the IC. U S WEST is not in a position to dictate to the IC a specific construction mandate (or interval) for it to place its fiber to the U S WEST POI. U S WEST has experienced IC delays in this regard.

With regard to the installation of the IDE, the most immediate problem in terms of tariffed "provisioning" mandates is that initial access to the IDE is not a matter under U S WEST's control. We must wait for the IDE to be delivered, pursuant to the terms of our existing tariff. If the delivery does not meet the requirements of the tariff, we will be further delayed, while the problems are rectified.

Additionally, there are different levels of expertise available in the technicians who will be performing work on non-standard IDE. Even with the most proficient of technicians, however, there could be problems encountered during the test and turn-up of the IDE that would make it difficult to establish specific intervals for installation of that equipment.

Repair intervals do not lend themselves any better to tariffing requirements than do installation or provisioning intervals. For example, it would be difficult to tariff restoration intervals, because they are so dependent upon the IC and its activities (i.e., the IC's ability to isolate trouble, provide maintenance spares in a timely manner and participate in the repair isolation process).

For all of the above reasons, LECs should not be required to tariff provisioning or repair intervals with respect to either VEIC service generally, IDE equipment, or repair.

VIII. THERE NEED BE NO ADDITIONAL REPORTING REQUIREMENTS

Several commentors have asked that LECs providing VEIC service be required to provide reports with regard to service provisioning and repair.[28] U S WEST does not believe that a compelling case has been made for the need for such reports. Absent such a showing, we believe that reporting requirements easily amount to form over substance, consume resources that could better be put to use in customer service, and waste either trees or electrons.

However, to the extent that the Bureau believes that some substantive benefit would be associated with the receipt of such reports, we believe that reporting requirements should definitely be a first choice option over tariffing mandates. The former could demonstrate any "real" need for the latter.

[28] MCI at 24; MFS at 23-24. The Phase II Designation Order does not address the matter of reports or reporting requirements, specifically. Rather, it inquiries into the possibility of tariffing mandates. Phase II Designation Order at ¶¶ 89-91. Since reporting requirements might be seen as a substitute for tariffing mandates, and a more acceptable regulatory requirement from a LEC's perspective, U S WEST responds here to the commentors' discussion of this issue.

Within that context, U S WEST believes we could provide the following reports within a meaningful cost/benefit analysis:

- Missed installation due dates and the reason for the missed date (the due date would be based on each individual VEIC request and the date provided to the IC);
- Provisioning time of Virtual Expanded Interconnection Channel Terminations ("VEICT") for DS0/DS1/DS3;
- Repair times for the VEIC Entrance Facility;
- Trouble shooting from the IDE to the VEIC Entrance Facility; and
- Trouble shooting from the IDE through the EICT.

MCI also requests that LECs be required to file quarterly reports, on the public record, of the number of DS1 cross-connects or DS1-equivalents that have been taken by ICs in each central office.[29] Frankly, U S WEST is surprised that an IC would make such a request, unless there was some underlying interest in the IC in being able to judge its own competitive situation within each central office.

Such a report would be a clear indicator to an IC if it was the only IC in a particular central office. In such a situation, its individual total would equal the reported total. In those cases where it was not the "total" reported, such a report could advise an IC of its relative competitive size and market share. While U S WEST could certainly provide this information, we have concerns with the privacy and competitive issues involved.

[29] MCI at 24.

MFS also calls for reports for installation, maintenance and repair intervals.[30] In support of its position, it cites to the fact that it had submitted requests for VEIC service to U S WEST on January 24, 1995 and February 2, 1995, which it asserts remain uncompleted. MFS publicly expresses concern over this fact for the first time.[31] U S WEST, of course, has its own perspective on the matter.[32] Again, these kinds of business "disagreements" need neither reporting or tariffing "mandates" in order for them to be "identified." And, neither type of mandate would provide much additional leverage with respect to the "resolution" of such differences of opinion.[33]

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[30] MFS at 23.

[31] MFS' comments took U S WEST by surprise as bi-weekly status meetings have taken place with MFS' local representatives. U S WEST's issue resolution has been prompt and acceptable to local MFS representatives working on the project. As interconnection relationships get more and more ubiquitous and complex, the Commission should look to more of this informal information-sharing and issue resolution, not less.

[32] VEIC requests were received from MFS on February 3, 1995, for six wire center locations. Quotes were provided for these six locations on March 20, 1995. The required 50 percent down payments were received from MFS on May 9, 1995. U S WEST work activities began around that time.

There have been only two delays with respect to MFS'-cited projects. Neither of these delays were associated with any "bad acts" by U S WEST. Indeed, both delays were the result of actions outside of U S WEST's control. And, for that reason, the "acceptability" of both delays would be incorporated either into a tariff or reflected in any kind of report required to be filed with respect to VEIC services.

First, there was an issue with the city of Seattle business district, in which city permits to place the POI (manhole) were pulled. This resulted in a three-week delay. Second, there was a failure by MFS to ship all the IDE needed for installation. This resulted in a three-week delay. Finally, it should be noted that, in collaboration with the local MFS representatives, the completion dates for these projects were mutually negotiated between U S WEST and MFS to allow for IDE training for both parties.

[33] The narration in the above note demonstrates the fundamental inability of either reporting or tariffing requirements to act as "resolution" vehicles for inter-business disputes of this nature. Most of the problems that arise in this area are the result of differences of opinion, recollection, and human communication. Virtually any claim of "delay" and any response of "timeliness" will be fact-specific, as those facts are known and are relevant to the participants. And, in all events, both a tariff remedy and a reporting requirement would have an "after the fact" result. Neither would really accomplish much in the way of dispute resolution.

IX. U S WEST'S TRAINING PROVISIONS ARE REASONABLE BY ALL MEASURES

Commentors once again take up the matter of training, as such is reflected in the LEC tariffs.[34] Issues addressed include the number of technicians to be trained,[35] an IC-established level of training,[36] IC contracting for training of technicians,[37] and identification of training costs prior to submittal of a Quotation Preparation Fee ("QPF") from the IC.[38]

U S WEST's tariff only requires that three technicians per metropolitan serving area be trained,[39] rather than three technicians per central office.[40] Thus, at least in this area, we have escaped the shrill objections of commentors.

A tariffing requirement, however, is associated with more cumbersome administrative processes than a report. A report will simply identify that the incident occurred. By the time of the report, the issue will generally have already been resolved.

[34] See MCI at 19-22; MFS at 21-22; ELI at 4-5.

[35] See MCI at 21-22; MFS at 21.

[36] See MFS at 22.

[37] See id.

[38] See ELI at 4-5, 13-15.

[39] See U S WEST Tariff F.C.C. No. 5, Sections 21.7.2.D.6., 21.8.4.C.

[40] In this regard, MFS is incorrect. It asks that the Commission prescribe that no more than three technicians per central office be trained, citing to U S WEST as a LEC that has adopted this practice. MFS at 21. In fact, U S WEST's current tariffed training provisions are even more generous. We train only three technicians per metropolitan service area. However, as we have indicated, this might change if the costs of training remain high over time and the burden of absorbing those costs become unreasonable.

Despite the suggestions of commentors, U S WEST does not view "IDE training" as a lucrative, independent revenue stream. It is not.[41]

While there are certain boundaries with respect to IDE training that U S WEST believes are appropriately established, we are quite willing to work with ICs on the best "win-win" solution in this area. For example, we would encourage ICs to schedule training sessions where multiple LECs can attend. Schedules permitting,[42] U S WEST would be quite willing to participate if the training is conducted in the metropolitan area where the installation is to take place.

U S WEST could use this training vehicle to train either our tariffed three technicians or additional technicians. In the former case, we would <u>not</u> pay the "seat fee;" and the IC would ultimately pay the tariffed half-hour increment rates for the technician's time away from the office during the scheduled training. In the latter case, however, U S WEST would absorb the full costs of training.

U S WEST believes that we need more than three trained technicians on various kinds of IDE. For example, we will have ongoing costs for training, not recovered from the ICs, as trained personnel leave the company or move on to other positions. Thus far, we are absorbing these training costs. Thus, we would also be

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[41] U S WEST has already indicated that we might well lose money in the area of IDE training, and might be forced to reconstruct our tariff accordingly, in the future. <u>See</u> U S WEST Direct Case at 24-28.

[42] This is an example of a situation where U S WEST would want to maintain authority over the question of whether the schedule "permitted" the attendance. We are not willing to have ICs advise us that a U S WEST's technician's schedule "permitted" attendance, when we believe to the contrary.

very interested in sending these "additional technicians" to the training sessions scheduled by the IC.

Furthermore, as a matter of business practice, U S WEST will cooperate with ICs so that they can make early determinations about training requirements. If an IC identifies the specific wire center where VEIC service is desired, U S WEST is willing to provide information to the IC (in advance of the ICs sending in the QPF) as to whether training will be required.[43]

Working through the training issues associated with IDE can sometimes be a matter of a delicate balance. However, the demands of some ICs that they be allowed to establish the level of training required for U S WEST technicians[44] is

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[43] U S WEST has discussed this general subject with ELI prior to this filing. The following should eliminate any lingering concerns that ELI may have about our intentions. U S WEST is not agreeable to providing a complete list of every U S WEST wire center where training might be required. However, if an IC provides the specific wire center in which it is requesting VEIC service, U S WEST is willing to provide a list of standard transmission equipment in that office for which training will not be necessary.

[44] See MFS at 22 ("the [IC] should be permitted to establish the appropriate level of training that is required of the technicians that will be servicing the [ICs IDE]."). ICs, generally, cannot bring themselves to a point of equilibrium with respect to their "IDE." On the one hand, some seem obsessed with the *locus* of title. See discussion below at 31-33. On the other hand, they want additional prerogatives with respect to the IDE. They want not only to designate the equipment, but to determine who installs it and when; who repairs it and when; who is trained on it, by whom and at what cost and when they will work on the equipment. Compare MFS at 22 (arguing that the Commission should simply "establish the [IC's] right to make all necessary training arrangements"); ELI at 1-2 (arguing that a fundamental principle of VEIC service should be to provide the "[IC] the greatest amount of flexibility possible in controlling its own costs"). They want all the prerogatives of ownership, but no "title." Clearly, for all intents and purposes, the ICs deem the IDE to be theirs. When it suits their purposes, they want the Commission to lend them aid in this position; when the position does not work for them, they want to divorce themselves from ownership indicia.

Regardless of the appellate strategy components of this position, it is a most peculiar one to press with respect to the provision of a common carrier service by another, i.e., the LEC. The VEIC service offering is one being made by the LEC. Some carrier prerogatives must be accorded with respect to the service offering. The training of the carrier's employees is clearly one of those prerogatives. If a LEC wishes to "empower" an IC and reduce a putative "administrative burden" (see MFS at 22), it can always do so. However, it should not be mandated to abdicate its authority and service provider prerogatives.

patently unreasonable. U S WEST has already been quite generous in the area of technician training requirements. But that generosity will not extend this far.

The idea that U S WEST could have its technician training requirements dictated to it by a third party goes beyond any reasonable common carrier requirement. An IC might chose the lowest level of training for its "dedicated" technicians -- training that U S WEST deemed, in its expert judgment -- inadequate. On the other hand, IC "requirements" might mean that U S WEST was expected to train technicians beyond the level that we would train technicians for work on our own common carrier equipment or services.[45]

It is U S WEST's technicians who will be trained and unavailable for normal work loads. And it is U S WEST that will be issuing a credit allowance for any outage of VEIC services, something U S WEST obviously wants to avoid[46] Thus, it is clearly to U S WEST's advantage to have its technicians adequately (but not overly) trained to perform the functions necessary. IC mandates are totally unnecessary to reach the appropriate service quality level in this regard.

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[45] This might require, for example, that technicians who also service U S WEST equipment and services, in addition to IC equipment and services, could be absent from their normal work location and in training for significant additional periods of time. Such a requirement could result in technicians purely dedicated to service of IDE and services.

The suggestions of the ICs would hardly produce a "well-rounded technician," one who could be expected to have concomitant service and training requirements with respect to other equipment. Thus, it would impede U S WEST's ability to manage our pool of trained technicians, in order to cover vacation periods and the situation when currently-trained technicians move on to other positions.

[46] See U S WEST Tariff F.C.C. No. 5, Section 2.4.4.B.12.